

MICHELLE D. ALARIE, ESQ.
Nevada Bar No. 11894
ARMSTRONG TEASDALE LLP
1980 Festival Plaza Drive, Suite 750
Las Vegas, Nevada 89135
Telephone: 702.678.5070
Facsimile: 702.878.9995
malarie@atltp.com

ROMAINE C. MARSHALL, ESQ. (LR IA 11-2 admitted)
Utah Bar No. 9654
JOSE ABARCA, ESQ. (LR IA 11-2 admitted)
Utah Bar No. 12762
POLSINELLI
2825 E. Cottonwood Parkway, Ste. 500
Salt Lake City, Utah 84104
rmarshall@polsinelli.com
jabarca@polsinelli.com

Attorneys for Plaintiff Robert Armijo

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROBERT ARMIJO,

Plaintiff,

vs.

OZONE NETWORKS, INC. d/b/a OPENSEA, a
New York Corporation; YUGA LABS, LLC d/b/a
BORED APE YACHT CLUB, a Delaware limited
liability company; LOOKSRARE; and DOES 1 to
50,

Defendants.

Case No.: 3:22-cv-00112-MMD-CLB

**PLAINTIFF'S STATUS REPORT
PURSUANT TO ECF NO. 110**

Plaintiff Robert Armijo, by and through his counsel, Armstrong Teasdale LLP and Polsinelli LLP, files this Status Report pursuant to this Court's Minute Order dated January 20, 2023 (ECF No. 110) stating in relevant part, "Plaintiff must file a status report within 7 days with respect to the claims against the remaining defendant," Defendant LooksRare.

I. STATUS REPORT

LooksRare is a virtual exchange which allows digital collectors to buy, sell, swap, and create non-fungible tokens ("NFTs") and is a self-proclaimed "decentralized protocol" which has been in operation since January 2022 and generated more than \$9.5 billion in trading volume in its first three

1 weeks. *See* First Amended Complaint (“FAC”), ECF No. 62 at ¶¶ 3, 9. At the time of filing the original
 2 Complaint, LooksRare was believed to be the operating name for the company LooksRare Ltd., a
 3 private limited company registered in the United Kingdom as of January 26, 2022 based on its
 4 registration near in time to LooksRare’s launch. *Id.* ¶ 18.

5 Mr. Armijo’s claims against LooksRare include negligence, negligent supervision and training,
 6 and negligent hiring. Mr. Armijo may have additional claims against LooksRare based on its failure to
 7 implement common sense and reasonable security measures to prevent the foreseeable fraud and sale
 8 of stolen NFTs, and its fraud on NFT marketplaces, including against Mr. Armijo. For example,
 9 LooksRare states that it will not freeze or remove assets, collections, or user accounts from its
 10 exchange. Instead, consumers are told by LooksRare “to always ensure you are buying what you
 11 intended to” but it also states that it is “looking to set the new industry standard for NFT
 12 marketplaces.”¹

13 **II. SERVICE UPON LOOKSRARE**

14 LooksRare Ltd., a private limited company registered in the United Kingdom, was served with
 15 a copy of the Summons and Complaint on March 24, 2022, via hand-delivery to the reception desk at
 16 Chase Business Centre, 39-41 Chase Side, London, United Kingdom, N14 5BP, which is the registered
 17 office listed in Companies House for LooksRare, Ltd. (ECF No. 19.) Delivery to a company’s
 18 registered office address is believed to be valid service for purposes of English law.

19 LooksRare, Ltd. was also subsequently served with a copy of the First Amended Complaint on
 20 July 15, 2022, via leaving a copy of the document in a sealed envelope on the front reception desk at
 21 Chase Business Centre, 39-41 Chase Side, London, United Kingdom, N14 5BP, which remained the
 22 registered office listed in Companies House for LooksRare, Ltd. In addition, a copy of the First
 23 Amended Complaint was mailed to the sole director for LooksRare, Ltd., Peng Zeng, at Heilongjian
 24 Province, Deshan Township, Fangzheng County, Dong Tun, Gengyu Village, 150899 Deshan
 25 Township, China.

26 To date, LooksRare has not appeared in this action. LooksRare has also not responded to
 27

28 ¹ LooksRare, *The NFT Marketplace You’ve Been Waiting For*, LOOKSRARE BLOG (Jan. 1, 2022),
<https://docs.looksrare.org/blog/the-nft-marketplace> (last visited Jan. 27, 2023).

1 counsel or Mr. Armijo in any manner.

2 Based on the anonymous nature of LooksRare discussed more fully below, on March 3, 2022,
3 Mr. Armijo also delivered *via* certified mail notice of this lawsuit, the summons, and a copy of the
4 Complaint upon the registered agent address for Looks Rare Studio, LLC, a Wyoming limited liability
5 company with a listed address of 1712 Pioneer Ave., Suite 500, Cheyenne, Wyoming 82001.
6 LooksRare has not responded to this service, and there is no way to know if Looks Rare Studio, LLC
7 has any connection to the LooksRare entity named as a defendant in this lawsuit.

8 LooksRare has made it intentionally impossible to know with certainty who its co-founders,
9 officer, directors, or agents are and if they are located domestically or abroad. LooksRare does not
10 provide the names or address of any manager or director rather going by pseudonymous names on
11 company websites. LooksRare intentionally obfuscates its payments to founders, employees, and
12 contributors using digital mixing services.

13 Although the original service on LooksRare Ltd. is believed to be adequate, LooksRare has not
14 appeared. As such, Mr. Armijo is considering asking this court to permit service by alternative means.
15 In cases like this, where a defendant operates online and only provides means of contacting them
16 online, service through alternative means such as online points of contact is reasonably calculated to
17 notify the defendant of a lawsuit and thus comports with due process. *See Keck v. Alibaba.com, Inc.*,
18 Case No. 17-cv-05672-BLF, 2018 WL 3632160 (N.D. Cal. July 31, 2018) (finding email service met
19 due process as to companies that structured and operated online businesses and were accustomed to
20 communication by email); *Facebook, Inc. v. Banana Ads, LLC*, No. C-11-3619 YGR, 2012 WL
21 1038752 (N.D. Cal. Mar. 27, 2012) (concluding service by email was reasonably calculated to provide
22 notice to foreign defendants where they were involved in commercial internet activities and relied on
23 email communications to operate their businesses).

24 In addition, before filing an alternative service motion with the Court, requesting to be able to
25 serve a summons and First Amended Complaint in this action on LooksRare *via* the contact email
26 addresses listed on the LooksRare website, and *via* Twitter messages to a verified official Twitter
27 account for LooksRare, Mr. Armijo is attempting to determine if one of the founders of LooksRare is
28 a well-known NFT investor who goes by the moniker Dingaling (suspected full name “Dinghau Ziao”

or “Dinghau Xiao”) as reported by a crypto journalist, and if so, Mr. Armijo will either attempt to serve this founder through other means, including through a separate alternative service motion to this Court.

III. CONCLUSION

Based on the above and in an effort to obtain LooksRare’s participation in this action, within the next sixty (60) days Mr. Armijo will attempt service of process upon LooksRare’s reported co-founder or to motion this Court to serve LooksRare by emailing the contact email addresses listed on the LooksRare website and messaging the verified official Twitter account for LooksRare. In addition, Mr. Armijo also requests this time to further analyze this Court’s Order dated January 19, 2023 (ECF No. 109, and his claims against LooksRare.

DATED this 27th day of January, 2023.

POLSINELLI

By: /s/ Romaine C. Marshall

ROMAINE C. MARSHALL, ESQ.

(LR IA 11-2 admitted)

Utah Bar No. 9654

JOSE ABARCA, ESQ.

(LR IA 11-2 admitted)

Utah Bar No. 12762

2825 E Cottonwood Parkway, Suite 500

Salt Lake City, UT 84104

MICHELLE D. ALARIE, ESQ.

Nevada Bar No. 11894

ARMSTRONG TEASDALE LLP

One Summerlin

1980 Festival Plaza Drive, Suite 750

Las Vegas, Nevada 89135

Attorneys for Plaintiff Robert Armijo

CERTIFICATE OF SERVICE

Pursuant to Fed.R.Civ.P.5(b) and Section IV of District of Nevada Electronic Filing Procedures, I certify that I am an employee of POLSINELLI PC, and that the foregoing document:

☒ was served via electronic service to the address(es) listed on the electronic service list.

☐ was served via the U.S. Postal Service at Las Vegas, Nevada, in a sealed envelope, with first-class postage prepaid and to the address(es) shown below:

Date: January 27, 2023

/s/ Kaitlin Morgan

An employee of Polsinelli